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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,342	11/20/2000	Fred S. Cook	1470	8608
28005	7590	06/13/2005	EXAMINER	
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			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,342

Applicant(s)

COOK, FRED S.

Examiner

Khawar Iqbal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-9,11,16,17,20,21,23 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-9,11,16,17,20,21,23 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 3-9,11,16,17,20-21 and 23 are rejected under 35 U.S.C. 102(e) as being unpatentable by Steer (6643517).

3. Regarding claim 11 Steer teaches a method of altering operation of a device based on location, the device having a set of control logic that defines a first functional response to a first primitive, the method comprising in combination (figs. 1-3, abstract):

when the device is in a given location (sensitive areas), the device receiving a control signal associated with the given location (col.5, lines 40-50), wherein the control signal comprises a set of additional control logic to be executed by the device in response to the first primitive the additional control logic defining a new functional response to the first primitive (col. 5, lines 20-30,col. 8, lines 20-43);

storing the set of additional set of control logic in data storage of the device (col.8, lines 10-40); and

thereafter when the device receives the first primitives the device responsively carrying out the new functional response rather than the first functional response (col. 9, line 44-col. 10, line 25, see above); and

upon a predetermine duration after the device has exited the given location, reverting to carrying out the first functional response to the first primitive rather than the new functional response to the first primitive (col. 7, lines 40-55, col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Regarding claim 23 Steer teaches a method of altering operation of a device based on location, the device having a set of control logic that causes the device to employ a first predetermined primitive in carrying out a first function, the method comprising (figs. 1-3):

when the device is in a given location, the device receiving a control signal associated with the given location, wherein the control signal comprises a set of additional control logic to be executed by the device in carrying out the first function, the additional control logic defining a new primitive for the device to employ in carrying out the first function (col. 5, lines 20-30, col. 8, lines 20-43, see above);

storing the set of additional control logic in data storage of the device (col. 8, lines 10-40); and thereafter, in carrying out the first function the device employing the new primitive (col. 9, line 44-col. 10, line 25, see above); and

upon a predetermine duration after the device has exited the given location, reverting to carrying out the first functional response to the first primitive rather than the

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new functional response to the first primitive (col. 7, lines 40-55, col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Regarding claims 3,16 Steer teaches wherein the first primitive comprises a predetermined signal structure received from a communications interface (col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Regarding claims 4,17 Steer teaches wherein the first functional response to the first primitive comprises presenting a first signal to a user, and wherein the new functional response to the first primitive comprises presenting a second signal to the user instead of presenting the first signal to the user (col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Regarding claim 5 Steer teaches wherein the first signal comprises a signal selected from the group consisting of an audible signal and a visual signal (col. 6, line 20-30, col. 6, lines 35-52).

Regarding claim 6 Steer teaches wherein the predetermined signal structure represents a ring signal (col. 6, line 20-30, col. 6, lines 35-52).

Regarding claims 7 and 20 Steer teaches wherein the first functional response to the ring signal comprises emitting an audible alert signal, and wherein the new functional response to the ring signal comprises emitting a vibration or visual alert signal instead of emitting the audible alert signal (col. 6, line 20-30, col. 6, lines 35-52).

Regarding claims 8,21 Steer teaches associating the control signal with the given location by emitting the control signal from at least one transmitter local to the given location (col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Regarding claim 9 Steer teaches further comprising: detecting presence of the device in the given location, and responsively sending the control signal to the device in the given location (col. 8, lines 10-40, col. 9, line 44-col. 10, line 25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steer (6643517) as and further in view of Grube et al (5778304).

Regarding claim 33 Steer teaches flagging the additional set of control logic as an active set of control logic; after receiving the control signal but before flagging the additional set of control logic as an active set of control logic (col. 5, lines 27-53, see claim 11), prompting a user of the device for change function of the device (col. 6, lines 1-17). Steer teaches determining when an emergency call is being made, and the mobile control software would then examine the dialed digits for an emergency number, such as 911. In any case, if this or another emergency dialing string is found, or the emergency button is operated, then the Protection Control Process (software) may allow the call inside the restricted zone of operation. Otherwise, the Protection Control Process blocks the call.

In an analogous art, Grube et al more detail teaches user of the device for approval of changing after the device receives the control signal (col. 3, lines 30-52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Steer by specifically adding features in order to enhance a user response indicating whether or not the user approves of the control logic to increasing the efficiency of the communication system allows safe operation of mobile radios in regions where interference causes serious problems (emergency call) as taught by Grube et al.

Response to Arguments

Applicant's arguments filed 2-25-05 have been fully considered but they are not persuasive. Examiner has thoroughly reviewed applicant's arguments but firmly believes the cited reference to reasonably and properly meets the claimed limitations. Applicants argument was that "upon a predetermine duration after the device has exited the given location, reverting to carrying out the first functional response to the first primitive rather than the new functional response to the first primitive (col. 7, lines 40-55, col. 8, lines 10-40, col. 9, line 44-col. 10, line 25)". In response, examiner would like to point out that first function response to a first primitive (con not make call), a set of additional control logic to be executed by the device in response to the first primitive the additional control logic defining a new functional response to the first primitive (no call activity except emergency call), when device exited the given location (transmission became normally out of the protected region),

"If the mobile is located outside the decoded protected region boundaries, then the Protection Control Process 26 may allow the mobile unit to operate normally by setting the Power **Control Switch** 27 to normal and/or allowing other parts of the mobile

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to make and receive calls normally” (col. 6, lines 26-31), “The check for protected region warning signals needs to be done each time the mobile unit prepares, to transmit as it may be moving and hence, may move **into or out** of protected region(s). Depending on the rate of motion of the mobile, the relative size of the protected region, and how far away the mobile has determined that it is from the protected region(s), this warning check should be done perhaps every few seconds” (col. 7, lines 40-55). Additionally, the examiner has given the claim language its broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Anticipatory reference need not duplicate, word for word, what is in claims; anticipation can occur when claimed limitation is “inherent” or otherwise implicit in relevant reference (*Standard Havens products Incorporated v. Gencor Industries Incorporated*, 21 USPQ2d 1321). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Khawar Iqbal whose telephone number is (571) 272-7909.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Khawar Iqbal


RAFAEL PEREZ-GUTIERREZ
PATENT EXAMINER
5/17/05